

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRIS EDSON, d/b/a GRAPE FREIGHT,

Plaintiff,

v.

FREIGHTLINER CORPORATION and
DETROIT DIESEL,

Defendants.

CASE NO. C05-1422C

ORDER

This matter comes before the Court on Defendants' joint motion to dismiss certain of Plaintiff's claims under Rule 12(b)(6). (Dkt. No. 9.) The Court has considered the papers submitted and the allegations in Plaintiff's complaint, and determined that oral argument is not necessary. For the reasons that follow, the Court GRANTS Defendants' motion.

In the complaint originally filed in King County Superior Court, Plaintiff seeks relief on four causes of action arising from his purchase of a truck and engine manufactured by Defendants. (*See* Dkt. No. 1-1.) Specifically, Plaintiff seeks money damages for: (1) "Breach of implied and expressed [sic] warrant[ies]," (2) "Negligence and Negligence *per se*," (3) "Breach of the warranty of Merchantability," and (4) Violation of RCW 62A." (*Id.* 6.) Following removal of the case to this Court, Defendants have filed a motion to dismiss Plaintiff's claims for breach of implied warranty and for

1 negligence *per se*, arguing under Rule 12(b)(6) that Plaintiff has failed to state a claim upon which relief
2 may properly be granted. (*See* Dkt. No. 9, at 2–3); *see also* FED. R. CIV. P. 12(b)(6). Plaintiff has not
3 filed any response to Defendants’ motion.

4 Under Local Rule CR 7(b)(2), a party’s failure to respond to a motion “may be considered by the
5 court as an admission that the motion has merit.” Accordingly, the Court deems Defendants’ motion well
6 taken and hereby GRANTS the motion. The Court ORDERS Plaintiff’s claims for breach of implied
7 warranty and negligence *per se* DISMISSED with prejudice.

8 SO ORDERED this 1st day of December, 2005.

9
10 A handwritten signature in black ink, appearing to read "John C. Capron", is written over a horizontal line.

11 UNITED STATES DISTRICT JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25